



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2018-0301; FRL-9988-99-Region 4]**

**Air Plan Approval; NC: Readoption of Air Quality Rules and Removal of Oxygenated**

**Gasoline Rules**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve several State Implementation Plan (SIP) revisions submitted by the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), on March 21, 2018, readopting and amending several air quality rules, and requesting to remove the rules for the oxygenated gasoline program. One of these SIP revisions also contains a non-interference demonstration, which concludes that removing the oxygenated gasoline rules would not interfere with attainment or maintenance of the National Ambient Air Quality Standards (NAAQS). EPA has preliminarily determined that North Carolina's March 21, 2018, SIP revisions are consistent with the applicable provisions of the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2018-0301 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may

publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9222. Ms. Sheckler can also be reached via electronic mail at [sheckler.kelly@epa.gov](mailto:sheckler.kelly@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Overview**

EPA is proposing to approve several SIP revisions submitted by North Carolina on March 21, 2018, seeking to readopt and amend various air quality rules, and to remove the rules for the oxygenated gasoline program from North Carolina's SIP. To support the request to remove the rules for the oxygenated gasoline program from the SIP, North Carolina's March 21, 2018, SIP revision contains technical support materials to demonstrate that the removal of the rules will not interfere with attainment or maintenance of any NAAQS or with any other

applicable requirement of the CAA. Specifically, these SIP revisions address State regulations amended or readopted in 15A North Carolina Administrative Code (NCAC) 02D Sections .0100, *Definitions and References*, .0200, *Air Pollution Sources*, .0300, *Air Pollution Emergencies*, and .0400, *Ambient Air Quality Standards*, and the removal of rules in 15A NCAC 02D Section .1300, *Oxygenated Gasoline Standard* (hereinafter referred to as the oxygenated gasoline program).<sup>1</sup> The March 21, 2018, SIP revision also includes changes to the Transportation Conformity Rules in 15A NCAC 02D Section .2000, however, in this action, EPA will not be addressing those amendments.

EPA's analysis of North Carolina's March 21, 2018, SIP revisions that are the subject of this proposed rule is organized into three parts under Section II. Part A provides the background, analysis, and the non-interference demonstration for the removal of North Carolina's oxygenated gasoline program; Part B contains information regarding rules submitted for readoption only; and Part C contains information regarding rules submitted for amendment.

## **II. Analysis of North Carolina's March 21, 2018, SIP Revisions**

### **A. Removal of the Oxygenated Gasoline Program**

#### **1. Background**

Under section 211(m) of the CAA, states with areas designated nonattainment for carbon monoxide (CO) with certain design values were required to submit revisions to their SIPs and implement oxygenated gasoline programs by no later than November 15, 1992.<sup>2</sup> For North

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<sup>1</sup> In the table of North Carolina regulations federally approved into the SIP at 40 CFR 52.1770(c), 15A NCAC 02D is referred to as "Subchapter 2D Air Pollution Control Requirements."

<sup>2</sup> Oxygenates are fuel additives that contain oxygen, usually in the form of alcohol or ether. Oxygenates can enhance fuel combustion and thereby reduce exhaust emissions. Some oxygenates also boost gasoline octane.

Carolina, the Raleigh-Durham and Winston-Salem areas were designated as nonattainment for the 8-hour CO standard with design values triggering the requirements of CAA section 211(m) for oxygenated gasoline. *See* 56 FR 56694 (November 6, 1991); 57 FR 56762 (November 30, 1992).<sup>3</sup> As a result, the State submitted, and EPA approved, an oxygenated gasoline program for the areas of Raleigh-Durham and Winston-Salem. North Carolina included the Charlotte CO nonattainment area in the program's coverage in its SIP, although it was not required to implement such a program for that area. *See* 59 FR 33683 (June 30, 1994).

The CAA established an attainment date of December 31, 1995, for all CO areas triggering the CAA section 211(m) requirements such as the Raleigh-Durham and Winston-Salem areas, and areas below that trigger, such as Charlotte, had to attain by November 15, 1995. Section 107(d)(3)(E) of the CAA sets out the requirements that an area must meet in order to be redesignated from nonattainment to attainment, including that the area must have a fully-approved maintenance plan pursuant to section 175A of the CAA. A maintenance plan, as defined in section 175A(a) of the CAA, is a revision to the SIP to provide for the maintenance of the NAAQS for the air pollutant in question in the area concerned for at least 10 years after the redesignation. CAA section 175A(d) requires that such plans include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of an area; this includes implementation of controls measures that were contained in the SIP prior to

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Because CO emissions from gasoline-fueled vehicles tend to increase in cold weather, the control period for oxygenated gasoline programs is during the winter months.

<sup>3</sup> Under CAA section 211(m), the triggering CO design value is 9.5 parts per million (ppm) or above. Raleigh-Durham had a design value of 10.9 ppm, and Winston-Salem had a design value of 9.7 ppm (based on 1988 and 1989 data). The Charlotte area was a pre-1990 nonattainment area and was designated by operation of law, but the area had a design value of 8.4 ppm (based on 1988 and 1989 data), which is below the 9.5 ppm. *See* 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992).

redesignation. In 1994, EPA approved North Carolina's request to redesignate the Winston-Salem area to attainment for the CO NAAQS and approved the initial 10-year maintenance plan for the area. *See* 59 FR 48399 (September 21, 1994). In 1995, EPA approved the redesignation of the Charlotte and Raleigh-Durham areas to attainment for the CO NAAQS and approved the initial 10-year maintenance plans for those areas as well. *See* 60 FR 39258 (August 2, 1995). The initial 10-year maintenance plans included the continued use of the oxygenated gasoline program for the Raleigh-Durham area. For the Charlotte and Winston-Salem areas, the initial 10-year maintenance plans included the oxygenated gasoline program as a contingency measure.

Subsequently, on October 19, 1995, North Carolina submitted a proposed SIP revision requesting that the oxygenated gasoline program for the Raleigh-Durham CO maintenance area be moved from the maintenance plan to the contingency measures portion of the maintenance plan. The request was based on a revised vehicle miles traveled analysis which demonstrated that the CO NAAQS could be maintained without the continued use of the oxygenated gasoline program. *See* 60 FR 56127 (November 7, 1995).<sup>4</sup>

Eight years after redesignation of an area to attainment, CAA section 175A(b) requires the state to submit an update to the original maintenance plan to provide for the maintenance of the NAAQS for another 10 years after the initial 10-year period has expired (this is known as the second 10-year maintenance plan). North Carolina's second 10-year maintenance plan for the Charlotte, Raleigh-Durham and Winston-Salem areas was approved by EPA on March 24, 2006 (71 FR 14817). The plan included the oxygenated gasoline program as a contingency measure

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<sup>4</sup> EPA analyzed this request and proposed to approve the revision in 1995. *See* 60 FR 56127, November 7, 1995. EPA received no comments on its proposed action. On June 20, 2007, EPA clarified that it ultimately finalized its approval in 2006. *See* 72 FR 33692.

for all three areas.<sup>5</sup> In 2015, the 20-year maintenance plan periods (covering the initial 10-year maintenance period and the second 10-year maintenance period) expired for all three areas. Specifically, the end date for the 20-year maintenance plan period for the Charlotte and Raleigh-Durham (Wake and Durham counties) areas was September 18, 2015, and the end date for the 20-year maintenance plan period for the Winston-Salem area (Forsyth county) was May 23, 2015.<sup>6</sup>

## **2. What are the CAA Requirements for the Removal of the Oxygenated Gasoline Program in North Carolina?**

One of North Carolina's March 21, 2018, SIP revisions seeks to remove the State's oxygenated gasoline program from the North Carolina SIP. As noted above, that program is included as a contingency measure in the State's second 10-year maintenance plan for the Charlotte, Raleigh-Durham, and Winston-Salem CO maintenance areas pursuant to the requirements of CAA section 175A(d). However, the requirement in section 175(A)(d) for contingency measures to include all control measures contained in the SIP prior to redesignation does not preclude the removal of contingency measures from the maintenance plan once the second 10-year maintenance plan period has expired. Here, the Charlotte, Raleigh-Durham, and

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<sup>5</sup> On June 20, 2013, (78 FR 37118), EPA approved North Carolina's request to convert the second 10-year maintenance plans to limited maintenance plans. A limited maintenance plan generally includes all the elements for a full section 175A maintenance plan except that a limited maintenance plan is not required to include motor vehicle emissions budgets for transportation conformity purposes. *See* the October 6, 1995, Memorandum from Joseph W. Praise to the Air Branch Chiefs, Regions I–X, entitled "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas."

<sup>6</sup> While these areas have all reached the end of their 20-year maintenance period, the second 10-year maintenance plan does not cease to be effective. Rather, the terms of the maintenance plan (including all measures and requirements) remain in effect until the State submits, and EPA approves, a revision to the plan consistent with the anti-backsliding requirements of CAA section 110(l) and CAA section 193, if applicable. North Carolina's March 21, 2018, SIP revision is such a request and the analysis of that request for consistency with the CAA's anti-backsliding requirements follows in Section II.A.2 below.

Winston-Salem areas' second 10-year maintenance plan periods expired in 2015, as described above. Thus, section 175A(d) does not preclude the removal from the SIP of the oxygenated gasoline program for these areas. North Carolina's March 21, 2018, SIP revision seeking such a removal must, however, still comply with the requirements of CAA sections 110(l) and 193, where applicable.<sup>7</sup>

Section 110(l) requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. EPA's criterion for determining the approvability of North Carolina's March 21, 2018, SIP revision is whether the non-interference demonstration associated with the removal of the oxygenated gasoline program for the Charlotte, Raleigh-Durham, and Winston-Salem areas satisfies section 110(l).

EPA evaluates each section 110(l) non-interference demonstration on a case-by-case basis considering the circumstances of each SIP revision. EPA interprets 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated but for which EPA has not yet made designations. The degree of analysis focused on any NAAQS in a non-interference demonstration varies depending on the nature of the emissions associated with the proposed SIP revision. With regards to the removal of the oxygenated gasoline program in North Carolina, the most relevant pollutant to consider is CO. EPA's analysis of North Carolina's March 21, 2018, SIP revision pursuant to section 110(l) is provided below.

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<sup>7</sup> CAA section 193 is not applicable to the instant SIP revision because the oxygenated gasoline program was not a control measure required to be adopted into the SIP by North Carolina for these areas prior to November 15, 1990.

### **3. What is EPA's Analysis of North Carolina's Non-Interference Demonstration?**

#### **a. Overall Preliminary Conclusions**

On March 21, 2018, DAQ submitted a revision to North Carolina's SIP-approved oxygenated gasoline program, along with a non-interference demonstration to support the State's request to remove the program from the North Carolina SIP. This demonstration includes an evaluation of the impact that the removal of the oxygenated gasoline program for Charlotte (Mecklenburg county), Raleigh-Durham (Wake and Durham counties) and Winston-Salem (Forsyth county) would have on North Carolina's ability to attain or maintain the NAAQS in the State. The demonstration and EPA's analysis of the potential impact of the removal of the program is below.

#### **i. Non-interference Analysis for the CO NAAQS**

EPA promulgated the CO NAAQS in 1971 and has retained the standards since its last review of the standard in 2011. The primary NAAQS for CO includes: (1) an 8-hour standard of 9.0 ppm, measured using the annual second highest 8-hour concentration for two consecutive years as the design value; and (2) a 1-hour average of 35 ppm, using the second highest 1-hour average within a given year. The counties subject to this proposed action have monitored data below the CO NAAQS for over 20 years.

Table 1 shows air quality data from monitoring sites in North Carolina, for the 8-hour CO NAAQS in the three areas for 2010 through 2017. The design values are all well below the CO NAAQS (see Tables 1, 2 and 3).



**Table 1. 8-hour CO Air Quality Data for Monitoring Sites in Charlotte Area**

Year	Annual 2 <sup>nd</sup> highest 8-hour concentration (ppm)	Design Value (ppm)	Percent of the standard of 9 ppm
2010	1.7	---	---
2011	1.5	1.7	19
2012	1.5	1.5	17
2013	1.6	1.6	18
2014	1.3	1.6	18
2015	1.2	1.3	14
2016	1.0	1.2	13
2017	1.3	1.3	14

**Table 2. 8-hour CO Air Quality Data for Monitoring Sites in Raleigh-Durham Area**

Year	Annual 2 <sup>nd</sup> highest 8-hour concentration (ppm)	Design Value (ppm)	Percent of the standard of 9 ppm
2010	1.3	---	---
2011	1.4	1.4	16
2012	1.3	1.4	16
2013	1.2	1.3	14
2014	1.2	1.2	13
2015	1.2	1.2	13
2016	1.5	1.5	17
2017	1.2	1.2	13

**Table 3. 8-hour CO Air Quality Data for Monitoring Sites in Winston-Salem Area**

Year	Annual 2 <sup>nd</sup> highest 8-hour concentration (ppm)	Design Value (ppm)	Percent of the standard of 9 ppm
2010	1.9	---	---
2011	2.1	2.1	23
2012	1.2	2.1	23
2013	1.7	1.7	19
2014	1.5	1.7	19
2015	1.3	1.5	17
2016	Monitor shut down in 2015	-----	----

For the 1-hour CO standard of 35 ppm, all three areas have recent design values that range from 4 percent to 6.6 percent of the standard. For the Charlotte area, ambient monitoring data for 2016 and 2017 show design values of 1.4 and 1.5 ppm, respectively. For the Raleigh-Durham area, ambient monitoring data for 2016 and 2017 show design values of 2.3 and 1.6 ppm, respectively. For the Winston-Salem area, the design value was 1.9 ppm for 2015. The monitor was approved to be and was shut down after 2015 monitoring season.

It is important to also note, that emissions from vehicles have dramatically been reduced through federal legislative and regulatory actions. At the time when areas were experiencing violations of the CO NAAQS in the 1970-1990, typical new cars were emitting nearly 13 grams per mile hydrocarbons (HC), 3.6 grams per mile nitrogen oxides (NO<sub>x</sub>), and 87 grams per mile CO. Since then, EPA has set standards to bring down levels of these pollutants, and the auto industry has responded by developing new emission control technologies. As a result, new passenger vehicles are 98-99 percent cleaner for most tailpipe pollutants compared to the 1960s, fuels are much cleaner — lead has been eliminated, and sulfur levels are more than 90 percent lower than they were prior to regulation. U.S. cities have much improved air quality, despite ever increasing population and increasing vehicle miles traveled, standards have sparked technology innovation from industry. Today, no areas in the United States are violating the CO NAAQS primarily due to the cleaner vehicle fleet.

As stated above, North Carolina's oxygenated gasoline program, which was designed to control CO from vehicles, was moved into the contingency portion of the Charlotte, Raleigh-Durham and the Winston-Salem areas' maintenance plans, to be used only if needed. The State has never needed to trigger implementing the oxygenated gasoline program. Monitoring from

2008-2011 show that all three areas continue to be well below (85 percent) the 8-hour CO NAAQS. For these reasons, EPA proposes to agree with North Carolina's technical demonstration that removal of the oxygenated gasoline program from the State's implementation plan would not interfere with maintenance of the CO NAAQS in the State or with any other applicable requirement of the CAA.<sup>8</sup>

**ii. Non-interference Analysis for the Fine Particulate Matter (PM<sub>2.5</sub>) NAAQS**

Over the course of several years, EPA has reviewed and revised the PM<sub>2.5</sub> NAAQS several times. On July 16, 1997, EPA established an annual PM<sub>2.5</sub> NAAQS of 15.0 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations, and a 24-hour PM<sub>2.5</sub> NAAQS of 65  $\mu\text{g}/\text{m}^3$ , and based on a 3-year average of the 98th percentile of 24-hour concentrations. *See* 62 FR 36852 (July 18, 1997). On September 21, 2006, EPA retained the 1997 Annual PM<sub>2.5</sub> NAAQS of 15.0  $\mu\text{g}/\text{m}^3$  but revised the 24-hour PM<sub>2.5</sub> NAAQS to 35  $\mu\text{g}/\text{m}^3$ , based again on a 3-year average of the 98th percentile of 24-hour concentrations. *See* 71 FR 61144 (October 17, 2006). On December 14, 2012, EPA retained the 2006 24-hour PM<sub>2.5</sub> NAAQS of 35  $\mu\text{g}/\text{m}^3$  but revised the annual primary PM<sub>2.5</sub> NAAQS to 12.0  $\mu\text{g}/\text{m}^3$ , based again on a 3-year average of annual mean PM<sub>2.5</sub> concentrations. *See* 78 FR 3086 (January 15, 2013).

EPA promulgated designations for the 1997 Annual PM<sub>2.5</sub> NAAQS on January 5, 2005 (70 FR 944), and April 14, 2005 (70 FR 19844). On November 13, 2009 (74 FR 58699), and on January 15, 2015 (80 FR 2206), EPA published notices determining that the entire state of North

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<sup>8</sup> CAA section 211(m) is an applicable requirement of the CAA for certain CO nonattainment areas and areas that have been redesignated to attainment (to the extent necessary for maintenance of the standard). However, following the expiration of the 20-year maintenance period (that is, at the end of the second 10-year maintenance plan period), the area is in attainment for CO and pursuant to CAA section 211(m)(6), an oxygenated gasoline program is no longer required by the Act.

Carolina was unclassifiable/attainment for the 2006 daily PM<sub>2.5</sub> NAAQS and the 2012 Annual PM<sub>2.5</sub> NAAQS, respectively.

In North Carolina's March 21, 2018, SIP revision, the State concluded that the removal of the oxygenated gasoline program would not interfere with attainment or maintenance of the PM<sub>2.5</sub> NAAQS. The oxygenated gasoline program is not designed to reduce emissions for PM<sub>2.5</sub>; therefore, removing it from the North Carolina SIP will not have any impact on ambient concentrations of PM<sub>2.5</sub>. EPA has evaluated the State's analysis and proposes to agree with North Carolina's technical demonstration that removal of the oxygenated gasoline program from the State's implementation plan would not interfere with maintenance of the PM<sub>2.5</sub> NAAQS in the State.

### **iii. Non-interference Analysis for the 2010 Nitrogen Dioxide (NO<sub>2</sub>) NAAQS**

The 2010 NO<sub>2</sub> NAAQS is set at 100 parts per billion (ppb), based on the 3-year average of the 98<sup>th</sup> percentile of the yearly distribution of 1-hour daily maximum concentrations. The annual standard of 53 ppb is based on the annual mean concentration. On February 17, 2012 (77 FR 9532), EPA designated all counties in North Carolina as unclassifiable/attainment for the 2010 NO<sub>2</sub> NAAQS.

Based on the technical analysis in North Carolina's March 21, 2018, SIP revision, all NO<sub>2</sub> monitors in the State are measuring below the annual NO<sub>2</sub> standard, and all near road monitors are measuring well below the 1-hour NO<sub>2</sub> standard. The oxygenated gasoline program is not designed to reduce emissions for NO<sub>2</sub>; therefore, removing it from the North Carolina SIP will not have any impact on ambient concentrations of NO<sub>2</sub>. Given the current unclassifiable/attainment designation and the results of North Carolina's emissions analysis,

EPA proposes to agree with North Carolina's technical demonstration that removal of the oxygenated gasoline program from the State's implementation plan would not interfere with maintenance of the 2010 NO<sub>2</sub> NAAQS in the State.

**iv. Non-interference Analysis for the Ozone NAAQS**

On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 ppm. This standard was more stringent than the 1-hour ozone standard that was promulgated in 1979. On March 12, 2008, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 ppm to provide increased protection of public health and the environment. *See* 73 FR 16436 (March 27, 2008). The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR 50.15. On October 26, 2015 (80 FR 65292), EPA published a final rule lowering the level of the 8-hour ozone NAAQS to 0.070 ppm.

North Carolina is currently designated attainment statewide for the all the ozone NAAQS. On November 6, 2017 (82 FR 54232), EPA designated the entire state of North Carolina attainment/unclassifiable for the 2015 8-hour ozone NAAQS. Additionally, all the counties subject to this proposed rulemaking were designated "unclassifiable/attainment" for the 2008 8-hour ozone NAAQS on May 21, 2012. *See* 77 FR 30088.

Given the current unclassifiable/attainment designation and the results of North Carolina's emissions analysis, EPA proposes to agree with North Carolina's technical

demonstration that removal of the oxygenated gasoline program from the State's implementation plan would not interfere with maintenance of the ozone NAAQS in the State.

**v. Non-interference Analysis for the Sulfur Dioxide (SO<sub>2</sub>) NAAQS**

On June 22, 2010 (75 FR 35520), EPA revised the 1-hour SO<sub>2</sub> NAAQS to 75 ppb which became effective on August 23, 2010. On August 5, 2013 (78 FR 47191), EPA initially designated nonattainment only in areas with violating 2009-2011 monitoring data. EPA did not designate any county in North Carolina for the 2010 1-hour SO<sub>2</sub> NAAQS as part of the initial designation. On March 2, 2015, a Consent Decree was entered by order of the United States District Court for the Northern District of California requiring EPA to complete designations for the remaining areas in the Country by three specific deadlines according to a court-ordered schedule.<sup>9</sup> For North Carolina, EPA designated the entire state attainment/unclassifiable for SO<sub>2</sub> on December 21, 2017 (effective April 9, 2018 <https://www.gpo.gov/fdsys/pkg/FR-2018-01-09/pdf/2017-28423.pdf>) except for the following townships/counties: Beaverdam Township (Haywood County); Limestone Township (Buncombe County); and Cunningham Township (Person County). Counties listed above deployed monitors which EPA is required to designate by December 31, 2020. Also, a portion of Brunswick County was designated unclassifiable effective in August 2016.

Based on the technical analysis in North Carolina's March 21, 2018, SIP revision, the State concluded that removal of the oxygenated gasoline program would not interfere with attainment or maintenance of the SO<sub>2</sub> NAAQS. The sulfur content in fuel has been significantly decreased through EPA's Tier 2 and Tier 3 rulemakings which tightened engine standards and

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<sup>9</sup> Copy of the Consent Decree- <http://www.epa.gov/so2designations/pdfs/201503FinalCourtOrder.pdf>

required that fuel formulations contain reduced levels of sulfur. *See* 65 FR 6698 (February 10, 2000) and 81 FR 23641 (April 22, 2016). Further, the oxygenated gasoline program is not designed to reduce emissions for SO<sub>2</sub>, therefore, removing it from the North Carolina SIP will not have any impact on ambient concentrations of SO<sub>2</sub>. For these reasons, EPA proposes to agree with North Carolina's technical demonstration that removal of the oxygenated gasoline program from the State's implementation plan would not interfere with maintenance of the 2010 SO<sub>2</sub> NAAQS in the State.

**vi. Non-Interference Analysis for 2008 Lead NAAQS**

On November 12, 2008 (73 FR 66964), EPA promulgated a revised primary and secondary lead NAAQS of 0.15 µg/m<sup>3</sup>. Under EPA's regulations at 40 CFR part 50, the 2008 lead NAAQS are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with Appendix R of 40 CFR part 50, is less than or equal to 0.15 µg/m<sup>3</sup>. *See* 40 CFR 50.16. On November 8, 2011 (76 FR 72907), EPA designated the entire State of North Carolina as unclassifiable/attainment for that NAAQS. North Carolina's ambient lead levels have remained well below the standard. The oxygenated gasoline program is not designed to reduce emissions for lead, therefore, removing it from the North Carolina SIP will not have any impact on ambient concentrations of lead. For these reasons, EPA proposes to agree with North Carolina's technical demonstration that removal of the oxygenated gasoline program from the State's implementation plan would not interfere with maintenance of the 2008 lead NAAQS in the State.

## **B. Rules Submitted for Readoption Only**

On November 9, 2017, the North Carolina Environmental Management Commission amended and readopted various air quality rules in 15A NCAC 02D.<sup>10</sup> The rules that were submitted for readoption with no changes are contained in Section .0200, *Air Pollution Sources* as follows:<sup>11</sup>

.0201, *Classification of Air Pollution Sources*

.0202, *Registration of Air Pollution Sources*

Because these readopted rules contain no changes to the current SIP-approved version, EPA is proposing to approve the readopted rules into the North Carolina SIP.

## **C. Amended Rules**

As noted above, on November 9, 2017, the North Carolina Environmental Management Commission amended and readopted various air quality rules in 15A NCAC 02D. The rules that were amended are contained in Sections .0100, *Definitions and References*, .0200, *Air Pollution Sources*, .0300, *Air Pollution Emergencies*, and .0400, *Ambient Air Quality Standards*. More specifically, the following rules were amended and updated:

.0101, *Definitions*

.0103, *Copies of Referenced Federal Regulations*

.0104, *Incorporation by Reference*

.0105, *Mailing List*

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<sup>10</sup> This was done pursuant to the requirements of North Carolina's General Statute (G.S. 150B-21.3A), adopted by the State in 2013.

<sup>11</sup> While these readopted rules contain no changes, the aforementioned review and readoption made pursuant to G.S. 150B-21.3A, revises the state effective date of the rules to January 1, 2018.



.0302, *Episode Criteria*

.0303, *Emission Reduction Plans*

.0304, *Preplanned Abatement Program*

.0305, *Emission Reduction Plan: Alert Level*

.0306, *Emission Reduction Plan: Warning Level*

.0307, *Emission Reduction Plan: Emergency Level*

.0401, *Purpose*

.0402, *Sulfur Oxides*

.0404, *Carbon Monoxide*

.0407, *Nitrogen Dioxide*

.0408, *Lead*

.0409, *PM10 Particulate Matter*

.0410, *PM2.5 Particulate Matter*

Section .0100, *Definitions* is amended to update the format of units and references and Sections .0103, .0104, and .0105 are amended to update agency name, addresses and to include web referenced documents and costs.

Section .0300, *Air Pollution Emergencies* addresses the prevention of buildup of air contaminants during an air pollution episode to prevent a public health emergency. Section .0302 is amended to update the format of units, to update who proclaims air quality alerts and warnings and declarations of emergency at various pollutant levels requiring abatement actions from the Director to the Secretary's level with concurrence of the Governor, to remove obsolete pollutant levels triggering such proclamations or declarations and to renumber the subsections as

a result of the aforementioned changes. The amendments to Sections .0303 and .0304 update the format of references for air pollution alerts, warnings and emergencies. Sections .0305, .0306, and .0307 are amended to eliminate redundant language in paragraph 4 for open burning requirements.

Section .0400, *Ambient Air Quality Standards* contains the ambient air quality standards and associated monitoring methodologies for the State that reflect the NAAQS. Specifically, Sections .0401 and .0409, and .0410 are amended to update the format of references and acronym changes were made to .0402, .0404, .0407, and .0408.

EPA views all of the above amendments as minor or ministerial and is proposing to approve these rules, as amended, into the North Carolina SIP.

### **III. Incorporation by Reference**

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the following air quality rules under Subchapter 2D Air Pollution Control Requirements, Sections .0101, *Definitions*, .0103, *Copies of Referenced Federal Regulations*, .0104, *Incorporation by Reference*, .0105, *Mailing List*, .0201, *Classification of Air Pollution Sources*, .0202, *Registration of Air Pollution Sources*, .0302, *Episode Criteria*, .0303, *Emission Reduction Plans*, .0304, *Preplanned Abatement Program*, .0305, *Emission Reduction Plan: Alert Level*, .0306, *Emission Reduction Plan: Warning Level*, .0307, *Emission Reduction Plan: Emergency Level*, .0401, *Purpose*, .0402, *Sulfur Oxides*, .0404, *Carbon Monoxide*, .0407, *Nitrogen Dioxide*, .0408, *Lead*, .0409, *PM10 Particulate Matter*, and .0410, *PM2.5 Particulate Matter*, state effective January 1, 2018. EPA has made, and will

continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

#### **IV. Proposed Action**

For the reasons explained above, EPA is proposing to approve North Carolina’s March 21, 2018, SIP revisions seeking to readopt and amend various air quality rules, and to remove the oxygenated gasoline program from North Carolina’s SIP. With regard to the oxygenated gasoline program, EPA is proposing to agree with North Carolina’s technical demonstration that removal of the program from the State’s implementation plan will not interfere with continued attainment or maintenance of any applicable NAAQS or with any other applicable requirement of the CAA, and that the requirements of CAA section 110(l) have been satisfied. Specifically, EPA is proposing to remove oxygenated gasoline rules under Subchapter 2D, Sections .1300, .1301, .1302, .1303, .1304 and .1305 in their entirety from the North Carolina SIP.

EPA is also proposing to approve North Carolina’s March 21, 2018, SIP revision for the readoption without changes of the rules identified in Subchapter 2D, Section .0200 and for the minor amendments to rules identified in Sections .0100, .0300, .0400.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to approve state

law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 17, 2018.

Mary S. Walker,

Acting Regional Administrator,

Region 4.

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